IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 330 OF 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
AMITKUMAR MUKUNDRAY SHELAT & ANR. - Respondent(s)

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Appearance :
Ms. Jyoti Mehta for Appellant(s).
None for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 27/08/2007

ORAL JUDGMENT

The appellant-Gujarat State Road Transport Corporation ("the Corporation" for short), being aggrieved by the judgement and

award dated 1st/2nd April, 1990 passed by the learned Motor Accident Claims Tribunal (Auxiliary), Sabarkantha at Himmatnagar in M.A.C.P. No.465 of 1986, is before this Court with a submission that the learned Tribunal below erred in making an award of Rs.1,20,000/- in favour of the injured claimant.

2. The short facts necessary for disposal of the present First Appeal are that the claimant and others were sitting on a scooter as a pillion rider; they were going from Vijapur to Himmatnagar; they were on the correct side of the road; the driver of S.T. Bus No. GRR-9323 came with full speed, took a sudden right turn, as a result of which, the S.T. Bus dashed against the scooter, caused fatal injuries to the deceased – Mukeshbhai and serious injuries to others. The claimant of M.A.C.P. No.465 of 1986, a young person of 23 years, working as a Field Officer in Cadila suffered certain injuries; he was immediately taken to the hospital where he was provided the first aid and other treatment; he claimed a sum of Rs.2,00,000/- as damages.

The learned Tribunal below has awarded a sum of Rs.1,20,000/-. Being aggrieved by the said award, the appellant-Corporation is before this Court.

3. Ms. Jyoti Mehta, learned Counsel for the appellant, after

taking me through the evidence available on the records, submitted that present is a case of contributory negligence and the learned Tribunal below also erred in awarding a sum of Rs.1,20,000/- under different heads.

4. After going through the evidence available on the records and the findings recorded by the learned Tribunal below, being in general agreement with the findings relating to rashness, negligence and accident, I am of the opinion that the learned Tribunal below was justified in recording rashness and negligence on the part of the driver of the bus. That finding does not call for any interference.

5. So far as the claim made by the claimant is concerned, it is to be seen that he had suffered a fracture on the left knee joint upper 1/3rd and the shaft femur was also fractured; he had also suffered injuries on the left cheek, near upper eye and on 6th, 7th and 8th rib and on the spinal chord also. Under the head of medical expenses, rich diet and medicines, including transportation charges, the learned Tribunal below has awarded a sum of Rs.10,000/- only. In the opinion of this Court, looking to the expenses incurred by the claimant, the amount awarded cannot be held to be excessive. The amount of Rs.10,000/- awarded under the head of pain, shock and suffering, looking to the nature of the injuries, cannot be held to be excessive.

6. It is to be seen that the claimant was earning a sum of Rs.33,000/- per year. He could not attend to the work for a period of four to five months and if under the head of loss of earnings, a sum of Rs.10,000/- only has been awarded, then, the sum cannot be condemned as excessive.

7. The learned Tribunal below has held that the total body disability would be 20%, which in terms of money, would be Rs.6,000/- per year. The learned Tribunal had applied the multiplier of 15 (fifteen), which, in the opinion of this Court, cannot be said to be excessive. The learned Tribunal below was absolutely justified in making the award in favour of the claimant.

8. I find no reason to interfere. The appeal deserves to and is, accordingly, dismissed. No costs.

[R.S.Garg, J.]

*kamlesh**